

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ORDER

Upon review of plaintiff's response in opposition to summary judgment, the court notes that plaintiff states that he requests trial by jury. (Doc. 54, p. 7). However, neither plaintiff nor defendant has previously asserted a jury demand. Pursuant to Federal Rule of Civil Procedure 38, a written demand for jury must be made "no later than 10 days after the last pleading directed to the issue is served." As defendant filed his answer on April 26, 2005 (Doc. 26), and plaintiff's request was not made until February 8, 2008 (Doc. 54), plaintiff's request for a jury trial is clearly untimely. Therefore, plaintiff's request for jury trial is **DENIED**.

DONE and ORDERED this 16th day of May, 2008.

/s/ Callie V. S. Granade
CHIEF UNITED STATES DISTRICT JUDGE